

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

THE CITY OF NEW YORK; THE CITY OF
PHILADELPHIA; and THE CITY AND
COUNTY OF SAN FRANCISCO;

Plaintiffs,

Civil Action No.: 1:17-cv-01464-
CMH-MSN

v.

THE UNITED STATES DEPARTMENT OF
DEFENSE; *et al.*;

Defendants.

**DECLARATION OF MATTHEW J. MACLEAN
IN SUPPORT OF PLAINTIFFS' MOTION FOR A PRELIMINARY INJUNCTION**

I, Matthew J. MacLean, declare, pursuant to 28 U.S.C. § 1746, that the following is true and correct:

1. I am a member of Pillsbury Winthrop Shaw Pittman LLP, a law firm with offices at 1650 Tysons Boulevard, McLean, VA 22102, and am a member in good standing of the Bar of the State of Virginia, admitted to practice before this Court.

2. I submit this Declaration in support of Plaintiffs' Motion for a Preliminary Injunction.

3. Attached as Exhibit A is a true copy of a November 22, 2017 Memorandum from the Attorney General to the Director of the Federal Bureau of Investigations and the Acting Director of the Bureau of Alcohol, Tobacco, Firearms and Explosives with the subject, "Reporting of Information to the National Instant Criminal Background Check System (NICS) and Review of ATF Form 4473."

4. Attached as Exhibit B is a true copy of an article from the website of Senator John Cornyn titled, “Second Amendment, Domestic Violence, Law Enforcement Groups Support the Fix NICS Act.”

5. Attached as Exhibit C is a true copy of a June 2016 study from the United States Department of Justice, Bureau of Justice Statistics, by Jennifer C. Karberg, et al. titled, “Background Checks for Firearm Transfers, 2013-14—Statistical Tables.”

6. Attached as Exhibit D is a true copy of the December 6, 2017 statement of Douglas E. Lindquist, Assistant Director of the FBI’s Criminal Justice Information Services Division, before the United States Senate Committee on the Judiciary for a hearing on “Firearm Accessory Regulation and Enforcing Federal and State Reporting to the National Instant Criminal Background Check System (NICS).”

7. Attached as Exhibit E is a true copy of Department of Defense Instruction 5505.11, Incorporating Change 2, March 30, 2017.

8. Attached as Exhibit F is a true copy of the December 6, 2017 statement of Glenn A. Fine, Acting Inspector General of the United States Department of Defense before the United States Senate Committee on the Judiciary for a hearing on “Firearm Accessory Regulation and Enforcing Federal and State Reporting to the National Instant Criminal Background Check System (NICS).”

9. Attached as Exhibit G is a true copy of the Department of Defense Inspector General’s February 10, 1997 “Evaluation of Department of Defense Compliance With Criminal History Data Reporting Requirements.”

10. Attached as Exhibit H is a true copy of the Department of Defense Inspector General's February 12, 2015 "Evaluation of Department of Defense Compliance with Criminal History Data Reporting Requirements."

11. Attached as Exhibit I is a true copy of a November 15, 2017 CBS News article titled, "Army Acknowledges Failures to Report Crime Data to FBI After Texas Shooting."

12. Attached as Exhibit J is a true copy of the Department of Defense Inspector General's December 4, 2017 "Evaluation of Fingerprint Card and Final Disposition Report Submissions by Military Service Law Enforcement Organizations."

13. Attached as Exhibit K is a true copy of the December 6, 2017 statement of the Honorable Heather Wilson, Secretary of the Air Force, before the United States Senate Committee on the Judiciary for a hearing on "Firearm Accessory Regulation and Enforcing Federal and State Reporting to the National Instant Criminal Background Check System (NICS)."

14. Attached as Exhibit L is a true copy of a November 7, 2017 article for the Washington Post by Alex Horton titled, "The Air Force Says It Failed to Follow Procedures, Allowing Texas Church Shooter to Obtain Firearms."

15. Attached as Exhibit M is a true copy of a November 7, 2017 article for CBS News by Kathryn Watson titled, "Air Force Secretary Says Texas Shooter Was a "Serious Problem" in the Air Force."

Dated this 29th day of December, 2017

/s/ Matthew J. MacLean
MATTHEW J. MACLEAN

CERTIFICATE OF SERVICE

I hereby certify that on the 29th day of December, 2017, I will electronically file the foregoing with the Clerk of Court using the CM/ECF system.

I hereby certify that on the 29th day of December, 2017 I will cause the foregoing to be sent to the defendants by certified U.S. mail and will email the foregoing to the attorney for all defendants, Daniel Halainen, Esq.

/s/ Matthew J. MacLean
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